IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7837 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AABODANA OWNERS ASSOCIATION
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR UMANG K CHOKSI for the Petitioner
MS AC RAVAL, ASSISTANT GOVERNMENT PLEADER for the Respondents

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 04/08/2006

ORAL JUDGMENT

1. Present is the petition filed by the petitioner – Aabodana Owners Association praying that, the printed order dated 11.11.2002 passed by respondent No.2 be quashed and set aside.

2. Learned advocate for the petitioner submitted that the said order was passed in relation to a document which was registered at serial No.455 in the office of the Sub-registrar, Ahmedabad on 07.04.1994. The learned advocate submitted that before passing that order, the authority did not issue any show cause notice to the petitioner. The learned advocate submitted that this be not construed to mean that the petitioner and the learned advocate for the petitioner has given up the contention that, 'the authorities could not have issued a show cause notice beyond a period prescribed'.

3. The learned advocate submitted that the petitioner came to know about notice dated 27.09.2002 only after the authorities initiated steps to cause attachment of the property. He submitted that it is the specific case of the petitioner that notice dated 27.09.2002 was never served to the petitioner.

4. Ms.Archana C.Raval, learned Assistant Government Pleader submitted that notice dated 27.09.2002 was sent by Registered Post A.D.. She invited the attention of this Court to the averments made in paragraph No.4 of the affidavit in reply that, it was recorded in the outward Register bearing outward No.6641/O.S.

The respondent authorities are not able to produce an 'acknowledgment receipt' establishing the service of

notice.

5. The learned advocate relied upon a decision of this Court (Coram: K.S.Jhaveri, J.) in Special Civil Application 7836 of 2006 dated 28.04.2006, yet another judgment and order passed by this Court in Special Civil Application No.11456 of 2006 and allied matters, dated 10.07.2006. The learned advocate submitted that it is not in dispute that there is violation of principles of natural justice and therefore, on that short ground alone, the petition deserves to be allowed and the authorities are required to be directed to decide the matter afresh, after giving sufficient opportunity to the petitioner to represent its case.

6. On this short ground of non-observance of principles of natural justice, the order impugned, i.e. dated 11.11.2002 is hereby quashed and set aside. The matter is remanded to the authority – respondent No.3 (Deputy Collector (Stamp Duty) to consider the matter afresh and pass reasoned order after taking into consideration the submissions of the petitioner including that of the non-observance of period of limitation.

7. It will be open to the petitioner to rely upon the decisions of this Court at the time of hearing of the matter.

Initially, the petitioner shall remain present

before the authority on 31.08.2006 at 11.00 AM. It will be open to the authority to fix future schedule of hearing on that day. The petition is disposed of with the aforesaid directions. Rule is made absolute with no order as to costs. Direct service is permitted.

(RAVI R.TRIPATHI, J.)

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